

REMARKS

Claims 1-26 are all the claims currently under examination in the present application. Claims 11-14 have been amended. No new matter has been added.

Applicant notes that the Amendment Under 37 C.F.R. 1.111 filed on March 11, 2008 was rejected because claims 22-26 were missing. This Amendment hereby corrects the previous, non-conforming Amendment.

It is noted that the claims amendments are made only for pointing out the claimed invention more particularly, and not for distinguishing the invention over the prior art, narrowing the claims, or for statutory requirements for patentability. Further Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Applicant gratefully acknowledges the Examiner's indication that claims 1-10 are allowable and claims 15-18 would be allowable if rewritten in independent format. Applicant submits, however, that all pending claims are allowable.

Claims 11-14 and 19-26 stand rejected under 35 U.S.C. §103(a) over Padovani et al. (U.S. Patent Publication 2003/0063583) (hereinafter Padovani) in view of Urzaiz et al. (US Patent Application Publication No. 2005/0021838) (hereinafter Urzaiz).

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

An exemplary aspect of the claimed invention, as recited in independent claim 11, is directed to a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio equipment and a base station, the

method including a decoding step for decoding encoded data, a judging step for judging whether or not decoding has been performed in time, and a transmission controlling step for controlling the rate of transmission to/ from a base station if the judging step determines that the decoding has not been performed in time.

Another exemplary aspect of the claimed invention, as recited in independent claim 12, is directed to a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio equipment and a base station, the method including a decoding step for decoding encoded data according to the encoded data input into a decoder, a judging step for judging whether or not decoding has been performed in time, a transmission controlling step for controlling the rate of transmission to/ from a base station if the judging step determines that the decoding has not been performed in time, and an inputting/ outputting step for inputting/ outputting the decoded data output from the decoder in a format suitable for the input data.

Another exemplary aspect of the claimed invention, as recited in independent claim 13, is directed to a transmission rate controlling method of mobile radio equipment for controlling a rate of radio data transmission between mobile radio equipment and a base station, the method including a decoding step for decoding encoded data, a detecting step for detecting whether or not the decoding result is normal, a judging step for judging whether or not decoding has been performed in time, and a transmission controlling step for controlling the rate of transmission to/ from a base station if the judging step determines that the decoding has not been performed in time.

Another exemplary aspect of the claimed invention, as recited in independent claim 14, is directed to a transmission rate controlling method of mobile radio equipment for

controlling a rate of radio data transmission between mobile radio equipment and a base station, the method including a decoding step for decoding encoded data according to the encoded data input into a decoder, a detecting step for detecting whether or not the decoding result is normal, a judging step for judging whether or not decoding has been performed in time, a transmission controlling step for controlling the rate of transmission to/ from a base station if the judging step determines that the decoding has not been performed in time, and an inputting/ outputting step for inputting/ outputting the decoded data output from the decoder in a format suitable for the input data.

In conventional mobile radio equipment, when establishing communication, the mobile radio equipment informs a radio base station of the maximum transmission rate at which it can receive data from the base station. Subsequently, the radio base station adjusts resources to allocate resources to the mobile radio equipment newly connected thereto. After that, the radio base station determines the transmission rate for the mobile radio equipment, and enters into communication with the radio equipment.

In the radio communication system of the conventional technique, a radio line is operated at a data transfer rate or communication rate which can be selected from predetermined values regardless of whether or not communication has already been established. A radio communication terminal changes the communication rate in response to a request from a radio base station. The radio base station informs a correspondent terminal as to the change of the communication rate.

However, in the above-described conventional techniques, the resources of the radio base station are limited, and maximum efficiency cannot be achieved. Moreover, although the mobile radio equipment requests the maximum rate of data transmission, it might not

have a decoding capability commensurate with the maximum transmission rate, even if its radio transmission function is sufficient to receive data normally at the maximum rate.

The present invention, on the other hand, provides mobile radio equipment and a method of controlling transmission rate for the mobile radio equipment based on the capability of the decoder.

II. THE ALLEGED PRIOR ART REFERENCES

On page 2 of the Office Action, the Examiner admits that Padovani fails to teach or suggest deciding if the decoding has been performed in time. The Examiner then alleges that it would have been obvious to combine Urzaiz with Padovani to make up for Padovani's deficiency.

To establish a prima facie case of obviousness, several basic criteria must be met. First, rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness (*In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) cited with approval in *KSR Int'l. v. Teleflex, Inc.*, 127 S.Ct. 1727 (2007)). In addition, the prior art reference (or references when combined) must still teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

Applicants respectfully submit that neither Urzaiz nor Padovani, alone or in combination, teaches or suggests "a judging step for judging whether or not decoding has been performed in time," and "controlling the rate of transmission to/ from a base station if the judging step determines that the decoding has not been performed in time," as recited in independent claim 11, and as similarly recited in independent claims 12-14.

Instead, Urzaiz teaches that a client computer reports the data decoding rate, that is, the rate at which a buffer is emptied in the client, to the server. Urzaiz then sets the transmission rate the rate at which the buffer is emptied. See Urzaiz at paragraphs 99 and 100. Urzaiz sets the data rate flow at the buffer empty rate to prevent a buffer overflow for the data to arrive in the buffer as complimentary data is removed.

However, measuring the buffer emptying rate does not teach or suggest “judging whether or not decoding has been performed in time,” as recited in independent claim 11, and similarly recited in independent claims 12-14, because Urzaiz requires constant monitoring on the buffer while the invention recited in claim 11, for example, controls “the rate of transmission to/ from a base station if the judging step determines that the decoding has not been performed in time,” because the client itself is monitoring its usage and changes the transmission rate when the decoding is not being performed on time.

Accordingly, neither Padovani nor Urzaiz, alone or in combination, teaches or suggests “controlling the rate of transmission to/ from a base station if the judging step determines that the decoding has not been performed in time,” as recited in independent claims, 11-14. Accordingly, Applicant submits that claims 11-14 are in condition for allowance.

With respect to claims 19-26 which depend from independent claims 11-14, respectively, each of these claims contains all the limitations contained within independent claims 11-14 and are therefore also in condition for allowance.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

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Attorney Docket No. DP-977 US (MAR.092)

III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-26, all the claims presently under examination in the application, are patentably distinct over the prior art of record and are allowable, and that the application is in condition for allowance. Such action would be appreciated.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned attorney at the local telephone number listed below to discuss any other changes deemed necessary for allowance in a telephonic or personal interview.

The Commissioner is authorized to charge any deficiency in fees, including extension of time fees, or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Date: 6/13/7

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